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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No.

2010-537

11 **VERNON LEE JOHNSON**
12 **4155 Perlita Ave. #C**
Los Angeles, CA 90039
13 **Registered Nurse License No. 617047**

ACCUSATION

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
20 Department of Consumer Affairs.

21 2. On or about April 14, 2003, the Board issued Registered Nurse License Number
22 617047 to Vernon Lee Johnson (Respondent). The Registered Nurse License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on December 31,
24 2010, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise
28 indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

1 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
2 revoke a license on the ground that the licensee has been convicted of a crime substantially
3 related to the qualifications, functions, or duties of the business or profession for which the
4 license was issued.

5 **COST RECOVERY PROVISION**

6 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licensee found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case.

10 **DRUG CLASSIFICATION**

11 10. Ambien, a generic name for Zolpidem Tartrate, a nonbarbiturate hypnotic, is a
12 Schedule IV controlled substance as designated by Health and Safety Code section 11057,
13 subdivision (d)(32), and is categorized as a dangerous drug pursuant to Business and Professions
14 Code section 4022.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Substantially Related Conviction)**

17 11. Respondent is subject to disciplinary action under Code sections 490 and 2761,
18 subdivision (f) in that he was convicted of a crime substantially related to the qualifications,
19 functions, and duties of a registered nurse. The circumstances are as follows:

- 20 a. On or about December 21, 2007, in a criminal proceeding entitled *People of the State of*
21 *California vs. Vernon L. Johnson*, in the Los Angeles County Superior Court, Case
22 Number 7AV09343, Respondent was convicted on his plea of nolo contendere to one
23 count of violating Vehicle Code section 23152 (A) – driving under the influence - a
24 misdemeanor. The circumstances surrounding the conviction are that on or about
25 August 19, 2007, Respondent was involved in a traffic collision while driving under the
26 influence of alcohol and/or prescription drugs (Ambien). Respondent was placed on
27 three-year summary probation, ordered to serve one day in jail and enroll in a three-
28 month first-offender alcohol and drug counseling program. On or about July 10, 2009,

1 Respondent's probation was revoked due to his failure to complete the three-month
2 counseling program, and ordered to serve an additional ninety (90) days in jail.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Dangerous Use of Alcohol or Drugs)**

5 12. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
6 as defined under Code section 2762, subdivision (b), in that he used alcoholic beverage and/or
7 prescription drugs to an extent or in a manner dangerous or injurious to himself, any other person,
8 or the public or to the extent that such use impairs his ability to conduct with safety to the public
9 the practice authorized by her license. Complainant refers to and incorporates all the allegations
10 contained in paragraph 11 above, as though set forth fully.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Conviction Involving Alcohol or Drugs)**

13 13. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
14 as defined under Code section 2762, subdivision (c), in that he was convicted of a criminal
15 offense involving the consumption of alcoholic beverage and/or prescription drugs. Complainant
16 refers to and incorporates all the allegations contained in paragraph 11 above, as though set forth
17 fully.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board of Registered Nursing issue a decision:

21 1. Revoking or suspending Registered Nurse License Number 617047, issued to Vernon
22 Lee Johnson;

23 2. Ordering Vernon Lee Johnson to pay the Board of Registered Nursing the reasonable
24 costs of the investigation and enforcement of this case, pursuant to Business and Professions
25 Code section 125.3;

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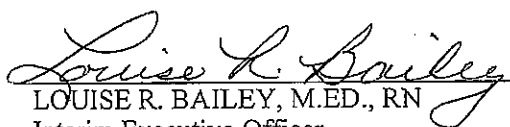
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3. Taking such other and further action as deemed necessary and proper.

DATED: 4/23/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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